

The undersigned mailed a response to the Examiner's October 24, 2001 Office Action on January 23, 2002. Included with that response was a properly itemized return postcard identifying the items included in the response. The undersigned received the return postcard as a receipt from the USPTO with a stamped date of Feb 12, 2002. According to section 503 of the MPEP:

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. (MPEP, sec. 503, p. 500-14, col. 2)

The Examiner claims that page two of the response was never received. However, as evidenced by the stamped return receipt postcard, the response as received by the USPTO included all three pages (see copy of enclosed postcard).

Section 503 of the MPEP provides:

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the postcard initialed by the person receiving the items. (MPEP, sec. 503, p. 500-15, col. 1)

Here, the returned postcard receipt does not identify any pages or any items as missing from the response mailed January 23, 2002. If page two was missing at the time the response was received by the USPTO, it should have easily been identified and noted on the return postcard receipt.

Because the return postcard receipt serves as prima facie evidence that no items were missing from the response, the Examiner's claim that page two was missing is not sufficient grounds for making the present Office Action final. Instead, that action should be withdrawn and the response should be considered in its entirety before further official action is taken. Enclosed is a copy of the response mailed January 23, 2002 and a copy of return postcard receipt discussed above.

In the event the Examiner rejects this request for reconsideration, please enter the copy of the January 23, 2002 response as a response to the present Office Action (which duplicates the rejections set forth in the Office Action of October 24, 2001)

If there are any additional charges, please charge Deposit Account No. 02-2666.

Dated: 5/7, 2002

12400 Wilshire Blvd.
Seventh Floor
Los Angeles, CA 90025-1026
(408) 947-8200

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP


Tarek N. Fahmi
Reg. No. 41,402